

**WORKFORCE DEVELOPMENT DEPARTMENT[871]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 96.11, the Director of Workforce Development hereby amends Chapter 21, “Unemployment Insurance Services Division,” Chapter 22, “Employer Records and Reports,” Chapter 23, “Employer’s Contribution and Charges,” Chapter 24, “Claims and Benefits,” and Chapter 25, “Benefit Payment Control,” Iowa Administrative Code.

These amendments update, clarify and simplify the procedures by which claimants and employers interact with Iowa Workforce Development.

Notice of Intended Action for these amendments was published in the May 24, 2017, Iowa Administrative Bulletin as **ARC 3070C**. No comments were received. The Notice was on the agenda of the Administrative Rules Review Committee (ARRC) meeting held on June 13, 2017. No questions or comments were received during this public meeting of the ARRC. This Adopted and Filed rule making differs from the Notice of Intended Action. The proposed amendments to subrules 22.3(4) and 22.3(6) were not adopted by the Department; amendments to those subrules are now proposed in **ARC 3138C**, a Notice of Intended Action published in the June 21, 2017, Iowa Administrative Bulletin. Additionally, paragraph 21.1(3)“c” in Item 1 and the amendments to paragraph 24.9(2)“b” in Item 13 and to subrule 24.31(2) in Item 16 have been revised.

This rule making does not have a fiscal impact on the State of Iowa.

Waiver provisions pursuant to Iowa Code section 17A.4(2) are not applicable.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 96.

These amendments will become effective September 6, 2017.

The following amendments are adopted.

ITEM 1. Rescind rule 871—21.1(96) and adopt the following new rule in lieu thereof:

**871—21.1(96) Unemployment insurance services division.** The primary responsibility of the unemployment insurance services division is to administer the provisions of the Iowa employment security law and related federal programs in accordance with pertinent laws, regulations, and policies. Attorneys who report to the administrator of the unemployment insurance services division perform the legal services for the division pursuant to Iowa Code section 96.17, which empowers the division to employ attorneys to represent it and give advice on all matters coming before it in conjunction with the administration of Iowa Code chapter 96. The division administers the payment of job insurance benefits to eligible individuals, determines which employers are subject to the state and federal laws enacted in this area, supervises the collection of taxes from these employers, and oversees a program to control the quality of benefit payment and revenue collection. These functions are performed by the following bureaus:

**21.1(1) Benefits bureau.** The benefits bureau determines the eligibility of individuals claiming unemployment insurance. In addition, the bureau also processes unemployment compensation for federal employees (UCFE), unemployment insurance for ex-service members (UCX), claims for trade readjustment assistance (TRA), voluntary shared work (VSW), and disaster unemployment assistance (DUA). It is also responsible for payments of other special federal unemployment insurance benefits as agreed to by the United States Department of Labor and the state of Iowa.

*a.* The bureau is responsible for screening all employer protests and investigates all labor dispute protests and issues appropriate decisions. This bureau determines individuals’ eligibility on disputed claims for unemployment insurance benefits based on Iowa employment security law and Iowa administrative rules and issues a determination. The bureau reviews decisions that determine which employers will receive charges on claims for unemployment insurance benefits and investigates claims for missing wages. The bureau performs fact-finding interviews with claimants and employers to resolve issues discovered by recording the responses the claimant provides to questions asked in the

weekly continued claim certification process. The bureau issues supplemental benefit payments due to misreported earnings or eligibility disqualifications. It also responds to communications involving technical matters related to unemployment insurance and corrects necessary records and the database due to subsequent appeal decisions which reverse or modify the prior decision issued on a claim.

*b.* The bureau oversees special claims for processing, which include claims for UCFE, UCX, TRA, VSW, DUA, and any other federal unemployment insurance programs. The bureau also administers training extension benefits (TEB), alternate base period (ABP), business closing claims, and department-approved training (DAT). The bureau computes and authorizes payments due, maintains needed records, and makes adjustments or redeterminations as applicable. This bureau is also responsible for processing initial interstate claims, assisting claimants in calling in their continued claims for payment, notifying employers of claim filings, processing overpayments and underpayments, adjudicating issues, processing interstate appeals, and processing combined wage claims. The bureau is responsible for all overpayment billing activity that results in an overpayment setup or refund, overpayment decision letter, or overpayment billing notice. The bureau is responsible for overpayment recovery programs, including withholding of Iowa and federal income tax refunds, Iowa lottery prizes, Iowa vendor payments, and the interstate reciprocal overpayment recovery arrangement. The bureau is responsible for the issuance of duplicate benefit payments for lost, stolen, outdated, or returned payments. The bureau authorizes and issues direct deposit transactions, debit cards and special warrants. The bureau verifies financial institution corrections of direct deposit routing and account numbers and updates the database records.

*c.* The bureau assigns document control information to each paper document, which provides automated electronic workflow routing, document retention criteria, document locating information, and computer updates. The bureau prepares documents and computer records for release to the public under subpoena or waiver provisions and collects record-processing fees.

*d.* The bureau is responsible for the voluntary income tax withholding program in which state and federal taxes are withheld from unemployment insurance benefits. The bureau is responsible for reporting tax withholdings and taxable unemployment insurance benefits to the Internal Revenue Service, Iowa department of revenue, and claimants.

**21.1(2) Tax bureau.** The tax bureau is responsible for the maintenance and control of all records of unemployment insurance tax paid by liable employers in the state of Iowa. Taxes collected are deposited in a fund to be subsequently used for benefit payments. The bureau also provides services to other states that request assistance with unemployment insurance enforcement of Iowa-based employers that conduct business in those states.

*a.* The bureau maintains financial records on employers; assigns rates each year to employers; makes all necessary adjustments to ensure proper charging to employers of benefits chargeable to them; maintains records of employer overpayments and refunds; and maintains the necessary contacts with employers' accountants, attorneys, and the general public to ensure the proper and timely submission of all the required reports to the unemployment insurance services division. The bureau ensures that all unemployment insurance-related documents received are scanned into a document repository.

*b.* The bureau is responsible for collecting and depositing all money received for contribution reports, delinquent contribution reports, benefit reimbursements, and interest and penalties with the state treasurer's office. Staff initiates routine legal actions such as the filing of liens, garnishments, and bankruptcies. Employers and claimants are contacted by mail, telephone, or e-mail or personally to initiate the collection process.

*c.* It is the bureau's responsibility to contact Iowa and out-of-state employers that do business in Iowa to establish taxpayers' liability under the law; explain the law's provisions; secure information and make determinations pertaining to new accounts, successorships and terminating tax liability; give information and assistance to ensure compliance in the preparation of tax reports; conduct investigations on federal unemployment tax Act (FUTA) discrepancy problems, contractor registration issues, business closings, and claimant requests for omitted wage credits; determine employer/employee and independent contractor relationship issues; assist in fraud investigations; conduct payroll and financial audits; and provide expert-witness testimony at employer liability hearings.

d. The bureau also assigns all field audit work. Information is entered into the automated system which generates materials to be utilized by the field audit staff in conducting an employer inquiry and audit.

**21.1(3) Integrity bureau.** The integrity bureau consists of three distinct work units: the investigations and recovery unit, the quality control unit, and the benefits collections unit.

a. The investigations and recovery unit is responsible for aggressive action to prevent, detect, investigate and penalize fraudulent actions on the part of employing units and individuals claiming unemployment insurance benefits. The bureau verifies whether aliens are entitled to unemployment insurance and investigates and disqualifies those who are not eligible. The bureau conducts the fictitious-employer detection program to discover employers set up for the purpose of fraudulent activities. The bureau prosecutes violations of the Iowa employment security law, including fraudulent receipt of unemployment insurance benefits, in conjunction with each county attorney in Iowa. The bureau investigates and determines whether an unemployment insurance warrant has been forged and whether it should be reissued.

b. The benefits collections unit is responsible for the collection of benefit overpayments, including penalties for fraudulent claims. The bureau is responsible for depositing all money received for benefit overpayments with the state treasurer's office. Staff initiates routine legal actions such as the filing of liens, garnishments, and bankruptcies. Claimants are contacted by mail, telephone, or e-mail or personally to initiate the collection process. The bureau analyzes the effectiveness of revenue collection processes for the unemployment insurance program.

c. The quality control unit reports to the integrity bureau chief as the unit works to support the development and execution of corrective action plans for the improvement of the unemployment insurance program. The unit is responsible for the collection and analysis of data pertaining to both the accuracy of unemployment insurance benefit payments and unemployment insurance benefit denial determinations. In addition, the unit is responsible for validation of the unemployment insurance data reports, identification and analysis of risk factors which could threaten the unemployment insurance program, and maintenance of the data-processing capabilities to store and transmit various agency-required reports to the federal government.

This rule is intended to implement Iowa Code chapter 96.

ITEM 2. Amend rule 871—22.6(96) as follows:

**871—22.6(96) Employer changing status, address or name required to file report.** Any employer who terminates business for any reason whatsoever, or transfers or sells all or a substantial part of the assets of the organization, trade or business to another, or changes the trade name of such business or address thereof shall, within ten days after such termination, transfer, or change of name or address, give notice ~~in writing~~ to the department of that fact. The employer shall set forth in such notice the former name, and address of the business, the new name, telephone number and address, the name of any new owner, and the employer's own name, telephone number and present address. Such notification shall be ~~on Form 60-0111, Employer's Notice of Change, or on Form 65-5313, Employer's Delinquency Notice submitted electronically.~~

This rule is intended to implement Iowa Code sections 96.11 and 96.8(4).

ITEM 3. Amend rule 871—22.16(96) as follows:

**871—22.16(96) ~~Transmittal~~ Electronic transmittal of contribution payments.**

**22.16(1) ~~Effect of postmark date.~~** An employing unit or person acting on behalf of one or more employing units must transmit payment of contributions to the department electronically.

~~a. When the due date for filing reports and paying contributions falls on Saturday, Sunday or a legal holiday it is sufficient compliance with the law if reports and contributions are postmarked on or before midnight of the next succeeding business day following such Saturday, Sunday or legal holiday.~~

~~b. Contributions, if mailed, shall be deemed to have been paid on the date of mailing as indicated by the postmark on the cover thereof. If no postmark date on the cover, the date received by the department shall be deemed date of payment.~~

**22.16(2) Reserved.** Once an employing unit transmits payment of contributions to the department electronically, the employing unit must submit all subsequent payments of contributions to the department electronically.

This rule is intended to implement Iowa Code sections 96.7(1) and 96.14(2).

ITEM 4. Amend rule 871—23.48(96) as follows:

**871—23.48(96) Previously covered employers.** If a contributory employer's account has been properly terminated and the employer is again determined liable or a reimbursable employer again elects to be contributory, the employer shall be treated the same as a newly covered employer, except the employer will not receive a new account number. The employer's wage information prior to the termination will not be used for tax rate or taxable wage calculations receive a new account number and be treated the same as a newly covered employer.

This rule is intended to implement Iowa Code sections 96.7 and 96.8.

ITEM 5. Amend paragraph **24.2(1)“a”** as follows:

a. ~~Following separation from work, any individual, in order to establish a benefit year during which the individual may receive benefits because of unemployment, shall report in person to the nearest workforce development center which takes claims and shall file an initial claim for benefits electronically, in person at a local department office, or by other means prescribed by the department and register for work. A claim filed in accordance with this rule shall be deemed filed as of Sunday of the week in which the claim is filed.~~

~~(1) An individual may file an initial claim for unemployment benefits by telephone, in person or other means prescribed by the department or may call the service center during regular business hours. Claims filed in accordance with this rule shall be deemed filed as of Sunday of the week in which the claim is filed.~~

~~(2) Reserved.~~

ITEM 6. Amend paragraph **24.2(1)“e”** as follows:

e. ~~In order to maintain continuing eligibility for benefits during any continuous period of unemployment, an individual shall report as directed to do so by an authorized representative of the department. If the individual has moved to another locality, the individual may register and report in person at a workforce development center at the time previously specified for the reporting.~~

~~(1) The method of reporting shall be weekly if a voice response continued claim is filed, unless otherwise directed by an authorized representative of the department. An individual who files a voice response weekly continued claim will have the benefit payment automatically deposited weekly in the individual's account at a financial institution or be paid by the mailing of a warrant on a biweekly basis on a selected debit card.~~

~~(2) In order for an individual to receive payment by direct deposit, the individual must provide the department with the appropriate bank routing code number and a checking or savings account number.~~

~~(3) The department retains the ultimate authority to choose the method of reporting and payment.~~

ITEM 7. Amend paragraph **24.2(1)“g”** as follows:

g. ~~No continued claim for benefits shall be allowed until the individual claiming benefits has completed a voice response continued claim or claimed benefits as otherwise directed by the department.~~

~~(1) The weekly voice response continued claim shall be transmitted not earlier than noon of 8 a.m. on the Sunday following the Saturday of the weekly reporting period and, unless reasonable cause can be shown for the delay, not later than close of business on the Friday following the weekly reporting period.~~

~~(2) An individual claiming benefits using the weekly voice continued claim system shall personally answer and record such claim on the system unless the individual is disabled and has received prior approval from the department.~~

- (3) The individual shall set forth the following:
- ~~(1)~~ 1. That the individual continues the claim for benefits;
  - ~~(2)~~ 2. That except as otherwise indicated, during the period covered by the claim, the individual was fully or partially unemployed, earned no gross wages and received no benefits, was able to work and available for work;
  - ~~(3)~~ 3. That the individual indicates the number of employers contacted for work;
  - ~~(4)~~ 4. That the individual knows the law provides penalties for false statements in connection with the claim;
  - ~~(5)~~ 5. That the individual has reported any job offer received during the period covered by the claim;
  - ~~(6)~~ 6. Other information required by the department.

ITEM 8. Amend subrule 24.2(3) as follows:

**24.2(3)** Filing a claim for unemployment insurance benefits (interstate only).

a. Initial interstate claims. ~~The filing of an initial interstate claim shall conform to all requirements of this rule with the exception of the initial claim form. Both agent and liable states shall use the Initial Interstate Claim, Form 61-1000(IB-1), unless otherwise directed by the Interstate Handbook. All interstate claimants must file an Iowa claim electronically or through a department representative.~~

b. ~~Rescinded IAB 8/6/03, effective 9/10/03.~~ When the department is acting as an agent for another state unemployment insurance agency with respect to the filing of an initial claim for benefits, the department shall require an interstate claimant to complete and file an Initial Interstate Claim, Form 61-1000(IB-1), unless otherwise directed by the interstate handbook.

ITEM 9. Amend subrule 24.8(1) as follows:

**24.8(1)** ~~Mailing~~ Issuance of a notice of the filing of an initial claim or a request for wage and separation information to employing units.

a. The Form 65-5317, Notice of Claim, and the Form 68-0221, Request for Wage and Separation Information, shall be ~~addressed to:~~

(1) ~~The~~ Addressed to the address or addresses as requested by the employing unit and agreed to by the department; ~~or,~~

(2) ~~The~~ to the business office of the employing unit where the records of the individual's employment are maintained; ~~or~~

(3) ~~The~~ to the employing unit's place of business where the individual claiming benefits was most recently employed; ~~and~~

(2) Sent electronically via the United States Department of Labor State Information Data Exchange System (SIDES).

b. No change.

ITEM 10. Amend paragraph **24.8(2)“d”** as follows:

d. The employing unit has the option of notifying the department under conditions which, in the opinion of the employing unit, may disqualify an individual from receiving benefits. The notification may be ~~made by mail using Form 60-0154, Notice of Separation, or by telephone using a telephone number designated by the department~~ submitted electronically.

(1) and (2) No change.

ITEM 11. Rescind and reserve paragraph **24.8(3)“c.”**

ITEM 12. Amend paragraph **24.9(2)“a”** as follows:

a. When a protest of an initial claim for benefits is filed, the department shall mail to the individual claiming benefits, and the most recent or any other base period employing unit, ~~either a Form 60-0186 (manually generated) or a Form 65-5323 (computer generated),~~ Unemployment Insurance Decision, which affects the individual's right to benefits.

ITEM 13. Amend paragraph **24.9(2)“b”** as follows:

b. ~~The interested parties shall~~ When an issue could result in a decision detrimental to an interested party, the interested party shall be afforded the opportunity to present facts and evidence ~~in person or by~~

telephone at which may include an informational fact-finding interview scheduled by the department. An interested party, at the party's expense and with the party's equipment, may ~~tape~~ record (video or audio) the proceedings. All participants must be informed of the ~~taping~~ recording of the interview. The ~~taping~~ recording of the interview must not be disruptive or distracting in nature.

ITEM 14. Rescind and reserve subrule **24.23(24)**.

ITEM 15. Amend subrule 24.25(10) as follows:

**24.25(10)** The claimant left employment to accompany the spouse to a new locality. No disqualification shall be imposed when Iowa Code section 96.5(1) "b" is applicable.

ITEM 16. Amend subrules 24.31(2), 24.31(5) and 24.31(6) as follows:

**24.31(2)** If the claimant has the qualifying wages for the establishment of a second benefit year as specified in Iowa Code section 96.4(4) which were earned prior to the filing of the previous claim, the claimant must, during or subsequent to that year, have worked in (except in back pay awards) and have been paid wages for insured work totaling at least \$250, ~~to fulfill the condition to be eligible for benefits on a new claim~~ eight times the claimant's weekly benefit amount from the claimant's previous benefit year as of the end of the benefit year end date. Vacation pay, severance pay and bonuses are not considered as wages for second benefit year requalification purposes.

**24.31(5)** The amount equal to \$250 eight times the claimant's weekly benefit amount from the claimant's previous benefit year in insured work need not be in addition to the qualifying wages for the establishment of a second benefit year.

**24.31(6)** Disqualification for lack of ~~the \$250 eight times the claimant's weekly benefit amount from the claimant's previous benefit year~~ in insured work shall be removed upon the verification that the claimant worked in and has been paid wages for insured work totaling \$250 eight times the claimant's weekly benefit amount from the claimant's previous benefit year during or subsequent to the previous benefit year.

ITEM 17. Amend subrule 24.35(1) as follows:

**24.35(1)** Except as otherwise provided by statute or by division rule, any payment, appeal, application, request, notice, objection, petition, report or other information or document submitted to the division shall be considered received by and filed with the division:

a. If transmitted via the United States ~~postal service~~ Postal Service on the date it is mailed as shown by the postmark, or in the absence of a postmark the postage meter mark of the envelope in which it is received; or if not postmarked or postage meter marked or if the mark is illegible, on the date entered on the document as the date of completion.

b. If transmitted ~~by any means other than the United States postal service on the date it is received by the division~~ via the State Identification Data Exchange System (SIDES), maintained by the United States Department of Labor, on the date it was submitted to SIDES.

c. If transmitted by any means other than those outlined in paragraphs 24.35(1) "a" and "b," on the date it is received by the division.

ITEM 18. Amend subrule 24.38(3) as follows:

**24.38(3)** The claimant will be told that if there was a previous election to file a combined wage claim, the claimant may withdraw the combined wage claim any time, up to the date the paying state's monetary determination becomes final. However, if the claimant withdraws a combined wage claim and benefits have been paid, the claimant will be required to repay any such benefits. This repayment may be done electronically, by cash, by check, by money order, or by an authorization to the state(s) from which such claimant next claims benefits to reimburse the combined wage paying state for any benefits which said claimant will be paid.

ITEM 19. Amend subrule 24.39(2) as follows:

**24.39(2)** A claimant may receive unemployment insurance while attending a training course approved by the department. While attending the approved training course, the claimant need not be available for work or actively seeking work except if the hours of the training are outside the regular hours worked in the base period employment. After completion of department-approved training the

claimant must, in order to continue to be eligible for unemployment insurance, place no restriction on employability. The claimant must be able to work, available for work and be actively searching for work. In addition, the claimant may be subject to disqualification for any refusal of work without good cause after the claimant has completed the training.

ITEM 20. Amend rule **871—25.1(96)**, definition of “Fact-finding interview,” as follows:

“*Fact-finding interview*” means a ~~face-to-face~~ discussion between a claimant or an employer and an investigator for the purpose of obtaining from the claimant or employer a statement containing information on a specific eligibility or disqualification issue.

ITEM 21. Rescind the definition of “Internal audit” in rule **871—25.1(96)**.

ITEM 22. Amend paragraph **25.3(1)“i”** as follows:

i. Validity of alien registration numbers through a cross-check with ~~Immigration and Naturalization Service~~ U.S. Citizenship and Immigration Services. If an alien has falsely claimed to be a U.S. citizen or used a false alien registration card in order to receive benefits, prosecution cases will be prepared when appropriate. Refer to rule 871—24.60(96) for the definition of alien.

ITEM 23. Amend subrule 25.5(3) as follows:

**25.5(3)** The ~~investigation~~ investigations and recovery ~~bureau unit~~ may seek the assistance and expertise of the ~~field auditors in investigating suspected cases of employing unit fraud~~ tax bureau staff.

ITEM 24. Amend subrule 25.7(1) as follows:

**25.7(1)** ~~A determination that a claimant,~~ Determination by reason of the claimant’s own fault, employer’s fault, agency fault, or fraud as provided in Iowa Code section 96.16, that the claimant has received benefits to which such claimant was not entitled shall be made by the ~~investigation~~ investigations and recovery ~~bureau unit~~ on the basis of such facts as it may obtain.

ITEM 25. Amend subrule 25.8(1), introductory paragraph, as follows:

**25.8(1)** *Good faith overpayment*. If an individual has acted in good faith in claiming benefits for any week and it is later determined that the individual is not entitled to receive the benefits, the department shall ~~have the right to~~ recover the overpayment of benefits either by having a sum equal to the overpayment deducted from any future benefits payable to the individual or by having the individual pay to the department a sum equal to the overpayment. The department shall mail the overpayment decision to the claimant’s last-known address. Once the overpayment amount has been established, an overpayment schedule shall be set up to leave a proper audit trail even if the claimant pays to the department a sum equal to the overpayment.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 8/2/17.